

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

ROSALBA SUAREZ and
SILVIA VANESSA MORENO,

Plaintiffs,

v.

BRANDON HELVIE and
NEW PRIME INC.,

Defendants.

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EP-22-CV-00344-DCG

**ORDER ACCEPTING REPORT AND RECOMMENDATION AND
GRANTING DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendants ask the Court to grant partial summary judgment in their favor on Plaintiffs' gross negligence claims.¹ The Court referred Defendants' Partial Summary Judgment Motion to U.S. Magistrate Judge Robert F. Castañeda for a Report and Recommendation ("R&R").² On December 8, 2023, Judge Castañeda issued an R&R recommending that the Court grant Defendants' Motion in its entirety.³

¹ Mot., ECF No. 36; *see also* Compl., ECF No. 1, at 4–5 (Plaintiffs' gross negligence claim against Defendant Brandon Helvie); *id.* at 6–7 (Plaintiffs' gross negligence claim against Defendant New Prime Inc.).

² Referral Order, ECF No. 38; *see also* 28 U.S.C. § 636(b)(1)(B); W.D. TEX. L.R. APP'X C, Rule 1(d)(1)(C).

³ R. & R., ECF No. 43.

Plaintiffs had 14 days—*i.e.*, until December 22, 2023—to object to the R&R.⁴ Because Plaintiffs didn’t object by that date, the Court therefore review the R&R for clear error only (rather than *de novo*).⁵

Having reviewed the R&R, the Court is satisfied that Judge Castañeda’s conclusions are neither clearly erroneous nor contrary to law. The Court therefore:

- (1) **ACCEPTS** Judge Castañeda’s “Report and Recommendation” (ECF No. 43) in its entirety;
- (2) **GRANTS** “Defendants Brandon Helvie and New Prime Inc.’s Motion for Partial Summary Judgment on Plaintiffs’ Claims for Gross Negligence” (ECF No. 36); and
- (3) **ENTERS PARTIAL SUMMARY JUDGMENT** in Defendants’ favor on Plaintiffs’ gross negligence claims.

Because this Order doesn’t dispose of Plaintiff’s other claims in this case,⁶ the case shall **REMAIN OPEN** and **PROCEED TO TRIAL** on Plaintiffs’ remaining claims as currently scheduled.⁷

⁴ See 28 U.S.C. § 636(b)(1) (“Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.”); W.D. TEX. L.R. APP’X C, Rule 4(b) (“Any party may object to a magistrate judge’s proposed findings, recommendations or report . . . within 14 days after being served with a copy thereof.”); *see also* R. & R. at 8 (alerting Plaintiffs to the 14-day objection deadline and the potential consequences for missing it).

⁵ See, e.g., *Magdalena Garcia v. Sessions*, No. 1:18-CV-59, 2018 WL 6732889, at *1 (S.D. Tex. Nov. 7, 2018) (“Where no party objects to the Magistrate Judge’s Report and Recommendation, the Court is not required to perform a *de novo* review of the Magistrate Judge’s determination, but need only review it to decide whether the Report and Recommendation is clearly erroneous or contrary to law.”).

⁶ See Compl. at 4 (Plaintiffs’ ordinary negligence claim against Defendant Helvie); *id.* at 5–6 (Plaintiffs’ ordinary negligence and vicarious liability claims against Defendant New Prime).

⁷ See Scheduling Order, ECF No. 23, at 3–4 (scheduling a Pretrial Conference for March 7, 2024 and a Jury Trial for March 18, 2024); *see also* Pretrial, Trial, & Posttrial Order, ECF No. 37.

So ORDERED and SIGNED this 3rd day of January 2024.

A handwritten signature in black ink, appearing to read "David C. Guaderrama", written over a horizontal line.

**DAVID C. GUADERRAMA
SENIOR U.S. DISTRICT JUDGE**